

Title 20

HARBORS AND NAVIGATION

Chapters:

- 01 (Reserved)**
- 02 Marine Inspection, Certification, License**
- 03 Boat Operations**
- 04 Regulation of Trade**
- 05 Abandoned and Derelict Vessels Act**
- 06-10 (Reserved)**
- 11 Harbor General Provisions**
- 12 Ports of Entry**
- 13 Pratique**
- 14 Pilotage**
- 15 Mooring and Unmooring**
- 16 Dockage and Wharfage**
- 17 Health and Safety**

Chapter 01

(RESERVED)

Chapter 02

MARINE INSPECTION, CERTIFICATION, LICENSE

Sections:

- 20.0201 Purpose.**
- 20.0202 Definitions.**
- 20.0203 Board-Creation-Membership.**
- 20.0204 Board-Powers-Duties.**
- 20.0205 Procedures of board.**
- 20.0210 Inspections.**
- 20.0211 Adoption of rules incorporating safety inspection procedures.**
- 20.0212 Certificates-Issuance or refusal.**
- 20.0213 Certificate of inspection or registry-Grounds for refusal, revocation, suspension, or limitation.**
- 20.0214 Certificates-Location-Produced on demand.**
- 20.0215 Location and contents of certificates of registry.**
- 20.0216 Boilers and pressure vessels and stationary or marine engines.**
- 20.0217 Tramways and aerial cables.**
- 20.0220 Change of vessel's name.**
- 20.0221 Report of change of ownership or interest.**
- 20.0222 Marking of vessel.**
- 20.0230 Licensure of masters, pilots, and engineers.**
- 20.0231 License-Grounds for refusal, revocation, suspension, or limitation.**
- 20.0232 License-Fees.**

- 20.0241** **Summary suspensions of license or certificate.**
- 20.0242** **Summary fines.**
- 20.0243** **Retention of vessel for inspection regarding suspected violations.**
- 20.0250** **Violation-Penalty.**

20.0201 **Purpose.**

It is the purpose of this chapter to establish certain standards for the protection and promotion of the health, safety and general welfare of people of the Territory of American Samoa; to encourage the orderly scheduling and safe operation of vessels in interisland and coastwise traffic in American Samoa and adjacent waters; to promote the public health, safety and general welfare by preventing unfair competition by and between vessels operating in American Samoa; to provide for fair and uniform rates, procedures, and regulations dealing with vessels operating in interisland and coastwise shipping in American Samoa and adjacent waters.

History: 1971, PL 12-34 § 2.

20.0202 **Definitions.**

As used in this chapter:

- (a) “Board” means the Board of Marine Inspectors.
- (b) “Vessel” includes every description of watercraft (except longboats and paopaos) used or intended to be used as a means of transporting passengers or freight for profit.

History: 1971, PL 12, 34 § 3.

20.0203 **Board-Creation-Membership.**

There is a Board of Marine Inspectors composed of 5 qualified persons, appointed by the Governor of American Samoa, which shall have general superintendence over all vessels and seamen operating in interisland coastwise traffic in American Samoa and adjacent waters. In addition, the Board shall have general superintendence over all boilers and pressure vessels and over all tramways, aerial cables, and all stationary or marine engines.

History: 1971, PL 12-34 § 4; amd 1978, PL 15-68 § 1.

Amendment: 1978 Added sentence relating to superintendence of Board over boilers and pressure vessels, tramways, aerial cables and stationary or marine engines.

20.0204 **Board-Powers-Duties.**

- (a) Subject to the provisions of this chapter, the Board may:
 - (1) issue registers and certificates of inspection (hull and machinery) for the operation of vessels;
 - (2) issue licenses for masters, pilots, and engineers after appropriate written and oral examinations as determined necessary by the Board;
 - (3) maintain records of Board proceedings and preserve copies of documents issued under this chapter;
 - (4) make all necessary inspections of vessels, boilers, and pressure vessels, tramways, aerial cables, and all stationary or marine engines in furtherance of the provisions of this chapter;
 - (5) promulgate rules necessary to effectuate the purposes of this chapter;
 - (6) hold hearings, compel attendance of witnesses order the production of documents and other tangible evidence and administer oaths; and
 - (7) refuse to issue, and revoke, suspend, limit or modify, a register, certificate of inspection or license provided for in this chapter.

(b) Subject to the provisions of this chapter the Board shall require an owner of a vessel engaged in commercial marine transportation for interisland travel to carry public liability insurance covering cargo and passengers in an adequate amount as determined by the Board.

History: 1971, PL 12-34 § 5; 1971, PL 12-63 § 1; amd 1978, PL 15-68 § 2; amd 1981, PL 17-15 § 3.

Amendment: 1978 Paragraph (4): added boilers and pressure vessels, tramways, aerial cables, and all stationary or marine engines”.

20.0205 Procedures of Board.

All procedures of the Board not set out in this chapter shall be conducted pursuant to the Administrative Procedure Act, 4.1001 et seq.

History: 1971, PL 12-34 § 18.

20.0210 Inspections.

The Board shall inspect, or cause to be inspected by a duly authorized representative, each vessel registered under this chapter. Such inspections shall be at reasonable times and places as the Board shall direct and shall be conducted at least once a year and at such other times as the Board shall deem necessary.

History: 1971, PL 12-34 § 7.

20.0211 Adoption of rules incorporating safety inspection procedures.

The Board is empowered to adopt rules incorporating by reference recognized safety inspection procedures of the Bureau of Shipping, Maritime Administration, or the United States Coast Guard. With reference to aerial tramways and aerial cables, the Board is authorized to contract with the manufacturer for appropriate inspection according to recognized industry standards.

History: 1978, PL 15-68 § 5.

20.0212 Certificates-Issuance or refusal.

Upon recommendation of the inspector, the Board shall either issue a certificate of inspection or shall refuse to issue such certificate. Upon refusal to issue such certificate, the Board shall list the reasons for the refusal.

History: 1971, PL 12-34 § 7.

20.0213 Certificate of inspection or registry-Grounds for refusal, revocation, suspension, or limitation.

A certificate of inspection or registry provided for in this chapter may be refused, revoked, suspended, limited, or modified for any one or combination of the following grounds:

- (1) failure to comply with any of the provisions of this chapter or valid rules and regulations of the Board adopted in furtherance of the purpose of this chapter;
- (2) fraud or misrepresentation in obtaining a registry or certificate of inspection;
- (3) refusal to permit inspection subsequent to a change of the physical conditions of the vessel.

History: 1971, PL 12-34 § 13.

20.0214 Certificates-Location-Produced on demand.

All certificates of inspection issued under this chapter shall be kept on board the vessel at all times and produced upon demand made by the Board, its authorized representative, the Harbor Patrol of Pago Pago Harbor or the United States Coast Guard.

History: 1971, PL 12-34 § 7.

20.0215 Location and contents of certificate of registry.

All certificates of registry issued by the Board shall be kept on the vessel and shall contain the following information:

- (1) ownership of vessel; if more than one owner, then the proportion of ownership of each;
- (2) residence and citizenship of each owner;
- (3) name of the vessel;
- (4) vessel's home port;
- (5) gross and net tonnage of vessel;
- (6) type of vessel and appropriate ship measurements;
- (7) the name of the liability insurance carrier and the amount of insurance;
- (8) any other information determined necessary by the Board.

History: 1971, PL 12-34 § 6; 1971, PL 12-63 § 2.

20.0216 Boilers and pressure vessels and stationary or marine engines.

All certificates of inspection of boilers and pressure vessels and stationary or marine engines issued by the Board must be affixed prominently on or near the boiler or on a tag affixed to the pressure vessel and shall show:

- (1) the name of the manufacturer of the boiler, pressure vessel or stationary or marine engine with identifying data to match the boiler or pressure vessel with the inspection certificate;
- (2) the date of all inspections and the name of the inspector; after 5 entries in a certificate a new form may be used, the old certificate to be retained by the owner of the boiler or pressure vessel in stationary or marine engine for at least 5 years;
- (3) any other information determined necessary by the Board.

History: 1978, PL 15-68 § 3.

20.0217 Tramways and aerial cables.

All certificates of tramways and aerial cable-ways issued by the board must be affixed prominently on or near the main operating machinery of the tramway or aerial cableway, which shall show the dates of all inspections and the name of the inspector, and such other information as the Board may prescribe by rule. Operation of a tramway without a valid inspection certificate showing inspection within 1 year is prohibited.

History: 1978, PL 15-68 § 4.

20.0220 Change of vessel's name.

No master, owner or agent may in any way change the name of a registered vessel without the authorization of the board pursuant to rules and regulations promulgated by the board.

History: 1971, PL 12-34 § 8.

20.0221 Report of change of ownership or interest.

It shall be the duty of the owner or owners to report any sale, lease or transfer, in whole or in

part, by way of trust or otherwise, of any vessel to the Board within 10 days.

History: 1971, PL 12-34 § 9.

20.0222 Marking of vessel.

(a) All vessels registered under this chapter shall be marked as follows:

- (1) name of vessel on both bow and the stem;
- (2) hailing port on the stem;
- (3) draft marks on the stern and stem of all vessels 50 gross tons and over;
- (4) load waterlines between stem and stem midway on hull;
- (5) official number and net tonnage on the vessel's main beam;
- (6) any other markings determined, necessary by the Board in furtherance of this chapter.

(b) All markings shall be in block letters and numerals not less than 4 inches in height, except for draft markings, which shall be 6 inches in height. The markings shall be of a color which will contrast with the color of the hull so as to be distinctly visible and legible.

History: 1971, PL 12-34 § 10.

20.0230 Licensure of masters, pilots, and engineers.

(a) All persons operating or performing technical duties on vessels engaged in coastwise or interisland traffic in American Samoa or adjacent waters shall be duly licensed by the Board as a master, pilot, or engineer. Issuance of the license shall be only to United States nationals, citizens or resident aliens who have resided in American Samoa 5 or more years. The vessel must be owned by a person legally conducting business in American Samoa, and must be registered in American Samoa.

(b) Nothing in this section may be construed to limit or restrict the board's authority to ascertain whether or not foreign vessels entering the Pago Pago Harbor and carrying goods or people to or from American Samoa have been licensed by a comparable board of the port of their origin and that the vessel's safety precautions and equipment meet the standards as promulgated by this chapter and duly authorized rules relating thereto.

History: 1971, PL 12-34 § 11.

Case Notes:

Creates duty to provide licensed crew for ship, breach of which constitutes negligence per se; recovery allowed. *Tialigo v. Steffany*, ASR 1976.

20.0231 License-Grounds for refusal, revocation, suspension, or limitation.

A license provided for in this chapter may be refused, revoked, suspended, limited, or modified by the Board for any one or combination of the following grounds:

(1) fraud or misrepresentation in obtaining a license authorized to be issued by the provisions of this chapter:

(2) breach of duty tending to endanger life or property;

(3) being under the influence of intoxicating liquor or drugs while actually performing required duties on a vessel;

(4) hindering, delaying or interfering with the Board or its authorized representative in the performance of his duties under this chapter;

(5) refusal to admit the Board or its authorized representative on board the vessel while performing duties under this chapter:

(6) willful and deliberate violation of any of the provisions of this chapter or any of the rules and regulations promulgated by the Board;

(7) failure to comply with any qualification or requirement provided in this chapter or any regulation promulgated under this chapter.

History: 1971, PL 12-34 § 12.

20.0232 License-Fees.

The following license fees are established:

(1) Master or engineer of boat carrying passengers, \$8.50.

History: 1963, PL 8-6; 1969, PL 11-49; amd 1977; amd 2017, PL 35-6.

Research Guide: see 27.0243 for administration and enforcement of this section.

20.0241 Summary suspensions of license or certificate.

(a) The protection of the safety and welfare of persons and goods transported on vessels registered in American Samoa is of vital concern to the people of American Samoa. The Board or its authorized representative shall have authority to immediately suspend any license or certificate issued pursuant to this chapter for violations of this chapter or the rules and regulations of the Board.

(b) Any suspension under this section shall be in effect until such remedial action is taken by the persons or vessel affected as is necessary under the circumstances and until the suspension is lifted, or until a hearing for a permanent revocation is conducted and an order issued.

History: 1971, PL 12-34 § 14.

20.0242 Summary fines.

(a) The Board or its authorized representative may summarily fine any person or vessel in violation of any provision of this chapter or of 20.0401 or rules of the Board in a sum not to exceed \$100 per incident or, in the case of an overload violation, a sum not to exceed \$25 per person or per 200 pounds of overload.

(b) Any person or vessel fined under this section may appeal the payment of the fine by filing a petition in the High Court of American Samoa, trial division, where the matter will be tried.

History: 1971, PL 12-34 § 15.

20.0243 Retention of vessel for inspection regarding suspected violations.

The Board or its authorized representative may temporarily retain any vessel when reasonable suspicion exists that there is a violation of a provision of this chapter or rules of the Board by a vessel carrying goods or passengers from any port, landing on islands of American Samoa. Retention of the vessel shall be only for that time needed to conduct an inspection to ascertain if such violation exists.

History: 1971, PL 12-34 § 16.

20.0250 Violation-Penalty.

Any person who is convicted of violating any section of this chapter or 20.0401 or any rules promulgated pursuant thereto shall be guilty of a class A misdemeanor and upon conviction, sentenced accordingly.

History: 1971, PL 12-34 § 19; amd 1980, PL 16-90 § 50.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

Chapter 03

BOAT OPERATIONS

Sections:

- 20.0301 Policy.**
- 20.0302 Definitions.**
- 20.0303 Applicability.**
- 20.0304 Administrative rules.**
- 20.0305 Release of information.**
- 20.0306 Fees.**
- 20.0310 Numbering of vessels-Required.**
- 20.0311 Numbering of vessels-Exemptions.**
- 20.0312 Identification number.**
- 20.0320 Safety equipment required.**
- 20.0321 Vessel liveries-Records and safety equipment.**
- 20.0322 Mufflers on motorboats.**
- 20.0330 Operation of motorboats or vessels.**
- 20.0331 Duties of persons involved in accidents.**
- 20.0332 Towing water skiers and surfers-Regulations.**
- 20.0333 Regattas, races, marine parades, tournaments, and exhibitions.**
- 20.0340 Civil liability of vessel owners.**
- 20.0341 Filing and publication of regulations.**
- 20.0342 Enforcement of chapter.**
- 20.0343 Violation-Penalty.**
- 20.0344 Requiring vessels in Territorial waters to communicate in English.**

20.0301 Policy.

It is the policy of this Territory to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of law relating thereto.

History: 1966, PL 9-35.

20.0302 Definitions.

As used in this chapter, the following definitions apply unless the context clearly requires otherwise:

(a) "Associated equipment" means a system, part, or component of a boat as originally manufactured, or any similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component; an accessory or equipment for, or appurtenance to, a boat; or a marine safety article, accessory, or equipment intended for use by a person on board a boat, excluding radio equipment.

(b) "Boat" means a vessel which is manufactured or used primarily for noncommercial use; leased, rented or chartered to another for non-commercial use; or engaged in the carrying of not more than 6 passengers.

(c) "Vessel livery" means a business which holds a vessel for renting, leasing, or chartering.

(d) "Lifeboat" means a small boat designated and used solely for lifesaving purposes, and does not include dinghies, tenders, speedboats, or other types of craft carried aboard vessels and used for other than lifesaving purposes.

(e) “Manufacturer” means a person engaged in the manufacture, construction, or assembly of boats or associated equipment to be sold for subsequent assembly; or the importation of a boat or associated equipment into the state for sale.

(f) “Motorboat” means any vessel of any size propelled by machinery whether or not the machinery is the principal source of propulsion.

(g) “Operate” means to navigate or otherwise use a vessel.

(h) “Operator” means the person who is in control or in charge of a vessel while it is in use.

(i) “Owner” means a person, other than a lienholder, having the property in or title to a vessel, and includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but excludes a lessee under a lease not intended as security.

(j) “Passenger” means a person carried on board a vessel other than the owner or his representative, the operator, bona fide members of the crew engaged in the business of the vessel who have not contributed consideration for their carriage and who are paid for their services, or a guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(k) “Person” means an individual, partnership, firm, corporation, association or other entity.

(l) “State” means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(m) “Undocumented vessel” means a vessel which does not have and is not required to have a valid marine document as a vessel of the United States.

(n) “Use” means to operate, navigate, or employ.

(o) “Vessel” means every description of watercraft other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include Samoan fishing canoes or rowboats propelled by hand.

(p) “Waters of this Territory” means any waters within the Territorial limits of this Territory, marginal sea adjacent to this Territory, and the high seas when navigated as a part of a journey or ride to or from the shore of this Territory.

History: 1966, PL 9-35, 1981, PL 17-2 § 1; amd 1983, PL 18-19 § 1.

Case Notes:

Person holding title to ship is owner for purpose of responding to damages resulting from ship’s sinking. *Tialigo v. Steffany*, ASR (1976).

Amendments: 1983 Section amended generally.

20.0303 Applicability.

(a) This chapter applies to vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this Territory.

(b) This chapter, except those sections where the content expressly indicates otherwise, does not apply to:

- (1) foreign vessels temporarily using waters subject to Territory jurisdiction;
- (2) military or public vessels of the United States, except recreational-type public vessels;
- (3) a vessel whose owner is a state or subdivision of it, other than this Territory, which is used principally for governmental purposes, and which is clearly identifiable as such; and
- (4) ships’ lifeboats.

History: 1983, PL 18-19 § 2.

20.0304 Administrative rules.

(a) The Department of Public Safety may adopt administrative rules under 4.1001 et seq. to implement this chapter with respect to:

- (1) the numbering and marking of undocumented vessels;
- (2) requirements for associated equipment;
- (3) boat and associated equipment standards;
- (4) operating requirements;
- (5) boating safety education; and
- (6) safety patrol and enforcement activity.
- (7) violations of provisions of these chapters.

(b) The Department of Public Safety shall adopt administrative rules under 4.1001 et seq. necessary to require all vessels, including those exempted from other sections of this chapter, to comply with uniform reporting and investigation of standards of casualties and accidents.

History:1983, PL 18-19 § 3; amd 1993, PL 23-9.

20.0305 Release of information.

(1) A person may request from the Department of Port Administration, vessel numbering and registration information which is retrievable from the vessels numbering system records of the department. When the department is satisfied that the request is reasonable and related to a boating safety purpose, the information must be furnished upon payment of the person of the cost of retrieval and furnishing of the information requested.

(2) Boating accident reports required under the authority of this chapter are not public records available for public inspection or release. The fact that these reports have been made is admissible in evidence solely to show compliance with this chapter. A report, its parts, and any statement contained in the report is not admissible as evidence for any purpose in any civil or criminal trial.

(3) Boating accident reports and any information compiled therefrom may be released to the law enforcement agencies and officials of the United States Coast Guard for analytical and statistical purposes.

History:1983, PL 18-19 § 4.

20.0306 Fees.

For each vessel required to be registered and numbered under this chapter, the Department of Public Safety shall assess and collect from the owner the following fees and charges:

- (1) Initial annual registration fee. For the issuance of an original certificate;
 - (A) For each vessel less than twenty feet in length, \$10.00;
 - (B) For each vessel twenty feet or more in length, \$20.00;
 - (C) For each amphibious vehicle that is licensed as a motor vehicles, \$10.00;
- (2) Annual certificate renewal fee. For the annual renewal of a certificate:
 - (A) For each vessel less than twenty feet in length, \$5.00;
 - (B) For each vessel twenty feet or more in length, \$10.00;
 - (C) For each amphibious vehicle that is licensed as a motor vehicle, \$5.00;
- (3) Reregistration fee for the reregistration of a vessel, after a certificate has been canceled or voided, the appropriate amount provided in (1)(A) or (B) of this section.
- (4) Transfer fee. For the transfer of a certificate, \$5.00;
- (5) Certificate and registration sticker replacement fee. For the issuance of a replacement certificate or a replacement set of vessel registration stickers, \$10.00;
- (6) Certificate modification fee. For modifying a certificate, \$5.00;
- (7) Penalty charges for lateness. For each month or fraction thereof that a registration,

renewal, reregistration or transfer is delinquent, one tenth of the appropriate fee shall be added to the normal fee;

(8) Exemptions. The department may reasonably establish, by rules, exemptions from the fees required by this section.

(9) The above fees and charges may be modified after every 5 years. The Department of Public Safety shall initiate the modification of fees and charges under this chapter.

History: 1993, PL 23-9.

20.0310 Numbering of vessels-Required.

(a) Every vessel operating on the waters of this Territory must be numbered in accordance with the Federal Boat Safety Act, 46 U.S.C. § 1451 et seq., 33 CFR Parts 173 & 174, and 46 U.S.C. Chapter 123.

(b) No person may operate or give permission to operate any vessel on such waters unless the vessel is numbered in accordance with this chapter, or in accordance with a federally approved numbering system within a state, and unless (1) a certificate of number awarded to such vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of the vessel. This section does not apply to a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successive thereto.

(c) The owner of any vessel is required to register every year upon expiration of the certificate of numbers on December 31 with the Department of Public Safety. This section does not apply to a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successive thereto.

(d) Each person using a vessel to which this part applies shall present the certificate of number and shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under the following circumstances;

(1) The person whose name appears on the certificate of number as owner of the vessel transfers all of his ownership of the vessel;

(2) The vessel is destroyed or abandoned;

(3) A certificate of number issued authority is invalid if:

(A) The application for the certificate of number contains a false or untrue statement;

(B) The fees for the issuance of the certificate of number are not paid;

(C) A certificate of number is invalid 60 days after the day on which the vessel is no longer principally used in the territorial waters of American Samoa where the certificate was issued.

(a) The certificate of number is invalid when the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal process.

(b) If a certificate of number is lost or destroyed, the person whose name appears on the certificate as the owner may apply for a duplicate certificate by submitting to the issuing authority an application on forms supplied by the issuing authority. Payment of a fee charged for the reissuance must be made before the certificate is issued.

(c) A temporary certificate is valid for not more than 60 days after it is issued by the issuing authority pending the issuance of a certificate of number. A temporary certificate is not valid after the date that the owner receives the official certificate of number from the issuing authority.

(d) Each form for application for a certificate of number must contain the following information:

(1) Name of owner of vessel;

(2) Address of the owner;

(3) State in which vessel is or will be principally used;

(4) The number previously issued by an authority for the vessel, if any;

- (5) Whether the application is for a number, renewal of number, or transfer of ownership;
- (6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use;
- (7) Year vessel was manufactured or model year;
- (8) Manufacturer's hull identification number, if any;
- (9) Overall length of vessel;
- (10) Type of vessel (open, cabin, house, or other);
- (11) Whether the hull is wood, steel, aluminum, fiberglass, plastic or other;
- (12) Whether the propulsion is inboard, inboard outdrive, sail or other;
- (13) Whether the fuel is gasoline, diesel, or other;
- (14) The signature of owner;
- (b) Each certificate of number must contain the following information;
 - (1) Number issued to the vessel;
 - (2) Expiration date of certificate;
 - (3) State of principal use;
 - (4) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other commercial use;
 - (5) Address of owner, including zip code;
 - (6) Manufacturer's hull identification number if any;
 - (7) Make of vessel;
 - (8) Year vessel was manufactured;
 - (9) Overall length of vessel;
 - (10) Whether the vessel is an open boat, cabin cruiser, houseboat, or other type;
 - (11) Hull material; wood, steel, aluminum, fiberglass plastic or others;
 - (12) Whether the propulsion is inboard, outboard, inboard outboard drive, or sail;
 - (13) Whether the fuel is gasoline or diesel or other.

History: 1966, PL 9-35; 1973, PL 13-7 § 1; amd 1993, PL 23-9.

Amendment: 1973 Amended section generally.

20.0311 Numbering of vessels-Exemptions.

A vessel shall not be required to be numbered under this chapter if it is:

- (1) a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto;
- (2) already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such vessel shall not have been within this Territory for a period in excess of 90 consecutive days;
- (3) a vessel from a country other than the United States temporarily using the waters of this Territory;
- (4) a vessel owned by the United States, the Government of American Samoa, a state or a subdivision thereof;
- (5) a ship's lifeboat;
- (6) a vessel belonging to a class of vessels exempted from numbering by the department of port administration after said department has found that the numbering of vessels of such class will not materially aid in their identification; and, if an agency of the Federal Government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the Department of Port Administration has further found that the vessel would also be exempt from numbering if it were subject to the federal law.

History: 1966, PL 9-35.

20.0312 Identification number.

The owner of any vessel required to be numbered pursuant to 20.0310 must display the number in accordance with the law under which the vessel is registered and proof of the registration must be furnished to the Director of the Department of Port Administration within 30 days of the registration of the vessel and as of 30 January of each year thereafter.

History: 1973, PL 13-7 § 2.

20.0320 Safety equipment required.

(a) Every vessel shall have aboard such safety equipment as shall be set out in the rules and regulations of the Department of Public Safety. Such safety equipment may consist of, but shall not be limited to, the following:

(1) one life preserver, buoyant vest, ring buoy or buoyant cushion, of a type approved by the Commandant of the United States Coast Guard and in good and serviceable condition, for each person on board;

(2) when in operation between sunset and sunrise, a light or lights, sufficient as determined by the Director of Public Safety, to make the vessel's presence and location known to any and all other vessels within a reasonable distance;

(3) each vessel shall have a backfire flame arrester; one approved device on each carburetor of all gasoline engines except outboard motors;

(4) if carrying or using any inflammable or toxic fluid in an enclosure for any purpose, and if not an entirely open vessel, an efficient natural or mechanical ventilation system, which shall be capable of removing resulting gases prior to, and during, the time such vessel is occupied by a person; when no fixed extinguishing system is installed in machinery spaces, at least one B-1 type approved hand portable fire extinguisher;

(5) each additional equipment designed to promote the safety of navigation and of persons as the Department of Public Safety may find to be appropriate and for which it has provided in its rules and regulations.

(b) Vessels of the following types should have the following distress signal devices:

(1) Vessels 16 feet in length should have the following distress signal devices:

(A) Pyrotechnic red flares, hand held or aerial;

(B) Pyrotechnic orange smoke, hand held or floating;

(C) Launchers for aerial red meters or parachute flares;

(D) Orange distress flag;

(E) Electric distress light;

(2) Vessels 16 feet to less than 26 feet in length shall have the following devices and distress signal devices:

(A) One life jacket or personal floatation device (PFD) for each person on board;

(B) Back-fire flame arrester;

(C) Portable/Fire extinguisher;

(D) Three hand-held red flares for day and night use;

(E) One electric distress light for night;

(F) One hand-held red flare and two parachute flares for day and night use;

(G) One hand-held smoke signal, two floating orange smoke signals and one electric distress light for day and night use;

(3) Vessels 26 feet to less than 40 feet in length shall have the following devices and distress signal devices;

- (A) One life jacket or PFD for each person on board;
- (B) Back-fire flame arrester;
- (C) Portable/Fire extinguisher, at least two B-1 Type approved hand portable fire extinguishers; or at least two B-1 Type approved portable fire extinguishers or at least one B-11 Type approved;
- (D) Three hand-held red flares;
- (E) One electric distress light;
- (F) One hand-held red flare and two parachute flares for day and night use;
- (G) One hand-held smoke signal, two floating orange smoke signals and one electric distress light for day and night;

(H) No person may operate a boat built after July 31, 1980, that has a gasoline engine unless it is equipped with an operable ventilation system. For boats built after April 25, 1940, and before August 1, 1980 (with engines using gasoline fuel and other fuels having a flashpoint of 110° F or less) the following is required:

(i) At least two ventilating ducts fitted with cowls or their equivalent for the purposes of properly and efficiently ventilating the bilges of every engine and fuel tank compartment. There shall be at least one exhaust duct installed so as to extend to the lower portion of the bilge.

(ii) For boats which are built after July 31, 1978, but prior to August 1, 1980, there is no requirement for ventilation of the fuel tank compartment if there is no electrical source in the compartment and if the fuel tank vents to the outside of the boat. The operator of a vessel is required to keep the system in operating condition;

(iii) Visual distress signal requirements shall be the same as for vessels 26 feet to 40 feet in length.

(4) Vessels between 40 feet and 65 feet in length shall have the following devices and distress signal devices:

- (A) One life jacket or PFD for each person on board and one type IV PFD;
- (B) Back-fire flame arrester requirement is same as for 26 feet to 40 feet vessels stated above;
- (C) Ventilation requirements is the same as those of 26 feet to 40 feet vessels;
- (D) Portable/Fire extinguisher shall be at least three B-1 Type approved portable fire extinguishers; when an approved fixed system is installed, one less B-1 Type is required.
- (E) Visual distress signal is same as for vessels 26 to 40 feet in length.

(c) No person may operate or give permission for the operation of a vessel which is not required by this section or modification thereof.

(d) The Refuse Act of 1899 prohibits the throwing, discharging or depositing of any refuse matter or any refuse matter of any kind (including trash, garbage, oil and other liquid pollutants into the waters of the United States and its territories to a distance of three miles from the coastline. The Federal Water Pollution Control Act prohibits the discharge of oil or hazardous substances in quantities which may be harmful into U.S. and its Territorial navigable waters, the Contiguous Zone, and water within 200 miles in some cases. You must immediately notify the commissioner of public safety if your vessel or facility discharges oil or hazardous substances into the water. Federal regulation issued under the Federal Water Pollution Control Act requires that:

(1) no person may operate a vessel of less than 100 gross tons unless it has a fixed or portable means to discharge oil bilge slop to a reception facility. A bucket or bailer is considered a portable means.

(2) Vessels 26 feet in length and over must have posted a placard at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in the machinery spaces, or at the bilge pump control station, stating the following: "THE DISCHARGE OF OIL PROHIBITED - THE FEDERAL WATER POLLUTION CONTROL ACT, PROHIBITS THE DISCHARGE OF OIL

OR OILY WASTE INTO OR UPON THE NAVIGABLE WATERS OF THE UNITED STATES OR WATERS OF THE CONTIGUOUS ZONE, IF SUCH DISCHARGE CAUSES A FILM OR SHEEN UPON, OR DISCOLORATION OF THE SURFACE OF THE WATER, OR CAUSES A SLUDGE OR EMULSION BENEATH THE SURFACE OF THE WATER. VIOLATORS ARE SUBJECT TO A PENALTY OF \$5,000.

(e) Marine sanitation devices.

All recreational boats with installed toilet facilities must have an installed operable marine sanitation device (MSD). Boats under 65 feet in length may use a Type I, II or III MSD. All installed MSD's must be Coast Guard certified devices and are so labeled except for holding tanks, which are already certified by definition under the regulation, if they store only sewage and flushwater at ambient air pressure and temperature.

(f) Ventilation requirements.

The purpose of the ventilation requirements is to prevent fires and explosions aboard gasoline powered pleasure boats by ventilating compartments which contain fuel vapors.

(1) All motorboats or motor vessels, except open boats, and as provided in paragraphs (d) and (e) of this section, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flash point of 110° F or less, shall have at least two ventilator ducts, fitted with cowls or their equivalent for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least one exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least one intake bilge below the level of the carburetor air intake. The cowls shall be located and trimmed for maximum effectiveness so as to prevent displaced fumes from being circulated.

(2) The term "open boats", means those motor boats or motor vessels with all engine and fuel tank compartments, and other spaces to which explosive or flammable gases and vapors from these compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of such gases and vapors within the vessel.

(3) Where alterations are needed for existing motorboats or motor vessels to comply with the requirements in this section, such alterations shall be accomplished as soon as practical but in any case shall be completed within six weeks of notification of discrepancy.

(4) Boats built after July 31, 1978, are exempted from the requirements of paragraph (a) for fuel tank compartments that:

(A) Contain a permanently installed fuel tank if each electrical component is ignition protected:

(B) Contain fuel tanks that vent to the outside of the boat;

(1) The current criteria for determination of an open compartment is that three conditions must be met in order to consider an engine or fuel compartment open to the atmosphere and therefore exempt from federal ventilation requirements. These three conditions are:

(A) Engine and fuel tank compartments shall have as a minimum 25 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume;

(B) There must be no long or narrow unventilated spaces accessible from such compartments in which a flame front could propagate;

(C) Long narrow compartments such as side panels if joining engine or fuel compartments and not serving as ducts thereto, shall have at least 15 square inch openings at 15 inch intervals along the length of the compartment formed. No person may operate a boat built after 31 July 1980, that has a gasoline engine for electrical generation, mechanical power, or propulsion unless it is equipped with an operable ventilation system that meets the requirements.

History: 1966, PL 9-35; amd 1993, PL 23-9.

20.0321 Vessel liveries-Records and safety equipment.

(a) The owner of a vessel livery shall cause to be kept a record of the name and address or persons hiring any vessel designed or permitted by him to be operated as a vessel, the identification number thereof, and the departure date and time, and the expected time of return. The record shall be preserved for at least 6 months.

(b) Neither the owner of the vessel livery, or his agent or employee, may permit any vessel designed or permitted by him to be operated as a vessel to depart from his premises unless it has been provided, either by owner or renter, with the equipment required pursuant to 20.0320 and any rules and regulations made pursuant thereto.

History: 1966, PL 9-35.

20.0322 Mufflers on motorboats.

The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for motorboats competing in a regatta or boat race approved as provided in 20.0333 and for such motorboats while on trial runs, during a period not to exceed 48 hours immediately preceding such regatta or race, and for such motorboats while competing in official trials for speed records during a period not to exceed 48 hours immediately following such regatta or race.

History: 1966, PL 9-35.

20.0330 Operation of motorboats or vessels.

(a) A person may not use or give permission for the use of any vessel to which this chapter applies, unless the vessel is in compliance with the requirements of this chapter and the applicable rules promulgated pursuant to 4.1001 et seq. under the authority of this chapter.

(b) A person may not operate a motorboat or vessel, or manipulate any water skis, surfboard, or similar device:

- (1) in a reckless or negligent manner so as to endanger the life or property of any person; or
- (2) while under the influence of alcohol or any narcotic drug.

(c) A person may not operate any vessel in excessive speed which tends to create a dangerous wake causing other boats in the vicinity to ship water, lose equipment, or in other ways receive damage or threaten the safety of persons in nearby boats.

(d) A person may not operate any vessel within an area where swimmers are normally present or in areas that are marked by warning signs, posters, buoys, or other means to inform the public of the hazard present.

(e) A person may not operate any vessel in an area where a regatta or marine parade is in progress in a way that could create hazard to participants or spectators, or interfere with the safe conduct of the event or otherwise cause an unreasonable nuisance.

History: 1966, PL 9-35; amd 1983, PL 18-19 § 5; amd 1993, PL 23-9.

Research Guide: Operation of boat while under the influence, see 22.0707.

Amendments: 1983 Subsection (a) added to require vessel compliance.

20.0331 Duties of persons involved in accidents.

(a) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger

caused by the collision, accident or other casualty, and also to give his name, address, and identification of his-vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(b) If the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of \$100, the operators of the vessels involved shall file with the Department of Public Safety a complete report of the collision, accident, or other casualty on forms approved by the Department of Public Safety. Such report shall be submitted within 48 hours after the occurrence. Where a person dies or is lost at sea or where a person is injured that requires medical treatment beyond first aid, the report shall be filed within 24 hours of the occurrence.

(c) When, as a result of an occurrence that involves a vessel, the operator or any person on board the vessel shall, without delay, by the quickest means available notify the Department of Public Safety, marine enforcement division of the following:

- (1) the date, time, and exact location of the occurrence;
- (2) the name of each person who died or disappeared;
- (3) the number of and name of the vessel; and
- (4) the names and addresses of the owner and operator.

History: 1966, PL 9-35; amd 1993, PL 23-9.

20.0332 Towing water skiers and surfers- Regulations.

(a) No person may operate a vessel on any waters of this Territory for towing a person or persons on water skis, a surfboard, or a similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person or persons being towed.

(b) No person may operate a vessel on any waters of this Territory towing a person or persons on water skis, a surfboard, or a similar activity, at any time between the hours from one hour after sunset to one hour before sunrise.

(c) Subsections (a) and (b) do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under 20.0333.

(d) No person may operate or manipulate any vessel, tow, rope, or other device by which the direction or location of water skis, a surfboard or a similar device may be affected or controlled in such a way as to cause the water skis, surfboard, similar device, or any person thereon to collide with or strike against any object or person.

History: 1966, PL 9-35.

20.0333 Regattas, races, marine parades, tournaments, and exhibitions.

(a) The Department of Public Safety may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this Territory.

(b) It shall adopt, and may from time to time amend, rules concerning the safety of motorboats and other vessels and persons thereon, either observers or participants.

(c) Whenever a regatta, motorboat or other vessel race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof shall, at least 30 days prior thereto, file an application with the Department of Port Administration for permission to hold such regatta, motorboat or other vessel race, marine parade, tournament, or exhibition. The application shall be made on a form provided by the Department of Public Safety and shall set forth the date and time when, and location where it is proposed to hold such regatta, motorboat or other vessel race, marine parade, tournament, or exhibition. No event shall be conducted without authorization of the Department of Public Safety in writing.

(d) The provisions of this section do not exempt any person from compliance with applicable

federal law or regulation, but nothing contained in this section shall be construed to require the securing of a Territorial permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

History: 1966, PL 9-35; amd 1993, PL 23-9.

20.0340 Civil liability of vessel owners.

The owner of a vessel is liable for any injury or damage occasioned by the negligent operation of such vessel whether such negligence consists of a violation of the provisions of the law of this Territory or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner is not to be liable, however, unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner if, at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter or other immediate member of the owner's family. Nothing contained in this section shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained in this section shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

History: 1966, PL 9-35

20.0341 Filing and publication of regulations.

(a) A copy of the regulations adopted pursuant to this chapter, and of any amendments thereto, shall be filed in the office of the Department of Port Administration.

(b) Rules shall be published by the Department of Port Administration in a convenient form.

History: 1966, PL 9-35.

20.0342 Enforcement of chapter.

Members of the police force of the Department of Public Safety, officers and members of the United States Coast Guard stationed in American Samoa, and other persons as provided by the rules of the department of public safety, have authority to enforce the provisions of this chapter, and in exercise thereof, have authority to stop and board any vessel subject to this chapter and also have the authority to arrest violators of provisions of this chapter.

History: 1966, PL 9-35; PL 17-2 § 2; amd 1993, PL 23-9.

20.0343 Violation-Penalty.

(a) Any person violating any of the provisions of this chapter, or of the rules and regulations adopted and promulgated pursuant to this chapter, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; provided that in addition to, or as a condition to the suspension of the fines and penalties, the court may deprive the offender of the privilege of operating any vessel, in the waters of the Territory for a period not more than two years.

(b) Except when required by Territorial law to take the purported violator immediately before a district judge a person arrested for a violation of any provision of this chapter including any rule or regulation adopted and promulgated pursuant to this chapter, the enforcement officer, upon arresting a person for violation of any provision herein, including any rule or regulation adopted and promulgated pursuant to this chapter shall, in the discretion of the enforcement officer, either (1) issue a summons or citation to the purported violator to appear and answer to the charge against him or her at a certain place and at a time within fourteen days after such arrest, or (2) where there is a possibility that the purported violator may flee the Territory of

American Samoa and that there is a likelihood that he or she will not make the appearance within the time and place as stated in the summons or citation, the enforcement officer shall take the purported violator without unnecessary delay before a district judge for arraignment and a bail to assure his appearance may be set by the district judge.

Said summons or citation shall be printed in a form comparable to the form of summons and citations used for arresting offenders in traffic cases in American Samoa. The form and content of such summons or citation shall be adopted or prescribed by the commissioner of public safety or his authorized representatives.

The original of a summons or citation shall be given to the purported violator and the other copy or copies shall be filed with the District Court and the Department of Public Safety. The District Court may prescribe alternative methods of distribution for the original and any other copies.

Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to the person by the enforcement officer, upon the person's arrest for violation of any provision of this chapter, including any rule and regulation promulgated pursuant to this chapter, shall be guilty of misdemeanor and, on condition shall be fined not more than \$1,000 or be imprisoned not more than six months, or both.

In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of warrant for that person's arrest. When a complaint is made to any prosecuting officer of the violation of any provision of this chapter, including any rule or regulation promulgated thereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official of the Department of Public Safety or officials of the High Court or District Court who has been appointed and authorized by the Governor of American Samoa to administer oaths and take acknowledgements.

History: 1966, PL 9-35; amd 1980, PL 16-90 § 49; amd 1983, PL 18-19 § 6; amd 1993, PL 23-9.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice. 1983 Amended to include penalties for new sections.

Chapter 04

REGULATION OF TRADE

Sections:

20.0401 Illegal trade restraints.

20.0405 Authority to purchase and use vessels for public transportation-Cargo rates.

20.0401 Illegal trade restraints.

No person may directly or indirectly, in respect to the transportation by water of passengers or freight between a port or landing of American Samoa or between islands of American Samoa or between a port of American Samoa and a port of another country:

(1) pay or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow a deferred rebate to any shipper;

(2) make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of:

(A) cargo space accommodations or other facilities; due regard being had for the proper loading of the vessel and the available tonnage;

(B) the loading and landing of freight in proper condition; or

(C) the adjustment and settlement of claims;

(3) retaliate against any shipper by refusing, or threatening to refuse space accommodations when such are available or resort to other discriminatory or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment for any reason.

History: 1971, PL 12-34 § 17.

Research Guide: For penalty, see 20.0250.

20.0405 Authority to purchase and use vessels for public transportation-Cargo rates.

(a) For the reason that, as the Legislature finds and determines, the best service being rendered to the people of American Samoa by existing private carriers is inadequate by reason of substandard vessels and insufficient service, the Governor is authorized to purchase, from funds made available for that purpose, vessels of such type and size as he deems reasonably necessary to adequately provide boat service to the people of American Samoa.

(b) Passengers and cargo for hire may be carried on vessels owned or leased by, or on loan to, the government.

(c) Passenger fares and freight rates under this section shall not be less than those established by the marine board for commercial lines for the same kinds of service.

(d) Notwithstanding anything to the contrary above, the board in consideration of the following criteria, not necessarily in order:

(1) the needs and interests of the people served:

(2) the best interests of the government; and

(3) the general policy of noninterference with private industry by the government; may, by rule, establish cargo rates lower than existing commercial rates for service to the North Shore of Tutuila Island, Aunu'u Island, Swains Island and the Manu'a Group of Islands of American Samoa.

History: 1967, PL 10-8; amd 1977, PL 15-19.

Amendment: 1977 Subsection (d): added.

Chapters 05

ABANDONED AND DERELICT VESSELS ACT

Sections:

20.0501 Short Title.

20.0502 Definitions.

20.0503 Abandonment of vessel unlawful.

20.0504 Disposition of certain abandoned vessels.

20.0505 Notice to owner.

20.0506 Public auction.

20.0507 Possession by interested party.

20.0508 When public auction not required.

20.0509 Effect of sale.

20.0510 Derelict vessel.

20.0511 Disposition of derelict vessel.

- 20.0512 Disposition of vessels by persons in vessel repair business.**
- 20.0513 When vessel abandoned.**
- 20.0514 Sale or disposition of vessel.**
- 20.0515 Disposition of proceeds.**
- 20.0516 Effect of transfer of title.**
- 20.0517 Regulations.**

20.0501 Short Title.

This chapter may be cited as the Abandoned and Derelict Vessels Act.

History: 2013, PL 33-9.

20.0502 Definitions.

In this chapter:

- (1) "Department" means the Department of Port Administration.
- (2) "Vessel" means every description of watercraft or other artificial contrivance, other than a seaplane on the water, used or capable of being used as a means of transportation on or through the water.
- (3) "Waters of this state or territory" means the navigable waters within the territorial limits of American Samoa, and the Contiguous Zone adjacent to the Territory, as defined in 48 U.S.C. 1705 and 48 U.S.C. 1706.
- (4) "Peace officer" shall include in its definition police officers with Department of Public Safety.

History: 2013, PL 33-9.

20.0503 Abandonment of vessel unlawful.

(a) A person may not store or leave a vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any public water, or at a port or harbor, of the Territory, without the consent of the agency having jurisdiction of the water, port, or harbor, or docked at any private property without the consent of the owner of the property.

(b) The department or a peace officer may remove a derelict vessel from public water in any instance when the vessel obstructs or threatens to obstruct navigation, contributes to air or water pollution, or in any other way constitutes a danger or potential danger to the environment or public.

(c) This section may not be construed to contravene any applicable federal law or regulation.

(d) A person who violates this section, upon conviction, is guilty of a Class B Misdemeanor with a punishment not to exceed (6) six months in prison or fines of (\$500) five-hundred dollars.

History: 2013, PL 33-9.

20.0504 Disposition of certain abandoned vessels.

A vessel that has been left unattended for a continuous period of more than 30 days and is in the waters of the territory or on public property, or is on private property without authorization of the owner or occupant of the property, may be taken into custody by the department or a peace officer and disposed of by the department under this chapter.

History: 2013, PL 33-9.

20.0505 Notice to owner.

On taking custody of an abandoned vessel, a written notice immediately shall be posted on the vessel and a duplicate of that notice sent by registered or certified mail, with a return receipt, to the registered owner of the vessel at the registered owner's last known address and to all lien holders shown on the records of a territory, state or federal agency. The notice must contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within 20 days after the mailing of the notice. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a territory or state department, or a federal agency.

History: 2013, PL 33-9.

20.0506 Public auction.

If the vessel is not repossessed within 20 days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation. However, the public auction may not be held less than five days after the publication of the advertisement. If no bid is received, the vessel may be sold by negotiation, disposed of as junk, donated to a governmental agency, or destroyed.

History: 2013, PL 33-9.

20.0507 Possession by interested party.

A person having an interest in an abandoned vessel may take possession of it before the date of the public auction upon payment to the department of all port or harbor use fees, towing, handling, storage, appraisal, advertising, and any other expenses incurred by the department in connection with the vessel. If the person taking possession of the vessel is not the registered owner, the person shall, before taking possession of the vessel, pay the expenses incurred by the department and post adequate security which may not exceed the appraised value of the vessel. The security, if not forfeited, shall be returned to the person one year after receipt.

History: 2013, PL 33-9.

20.0508 When public auction not required.

Public auction is not required when the appraised value of an abandoned vessel, as determined by an independent appraiser is less than \$1,000. The appraiser must have at least one year of experience in the sale, purchase, or appraisal of vessels. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the department may sell the vessel by negotiation, dispose of it as junk, donate the vessel to a governmental agency, or destroy it.

History: 2013, PL 33-9.

20.0509 Effect of sale.

The transfer of interest by sale under A.S.C.A. 20.0506-20.0508 shall be evidenced by a bill of sale from the department, considered a transfer by operation of law, and governed by applicable provisions of law.

History: 2013, PL 33-9.

20.0510 Derelict vessel.

A vessel that has been left unattended for a continuous period of more than 24 hours is a derelict if:

(1) the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or

(2) the vessel has been moored or otherwise left in the waters of the state or on public property contrary to law, or regulations adopted by the department, or the vessel has been left on private property without authorization of the owner or occupant of the property and if:

(A) the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a territory, state or the United States Coast Guard;

(B) the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;

(C) the vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or

(D) the vessel registration records of a territory, a state and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented and the owner's name or address cannot be determined.

History: 2013, PL 33-9.

20.0511 Disposition of derelict vessel.

(a) The department may take or cause a derelict vessel to be taken into custody immediately. Upon taking custody of a derelict vessel the department shall concurrently:

(1) publish a notice of intended disposition once in a newspaper of general circulation;

(2) when possible, post a notice of intended disposition on the vessel; and

(3) serve a duplicate of the notice of intended disposition by certified mail, with a return receipt, on:

(A) the registered owner of the vessel, if known, at the registered owner's last known address or the address on record of a territory or a state department or the United States Coast Guard; and

(B) all lien holders who have filed a financing statement indexed in the name of the registered owner, or who are shown on the records of a territory or state department, or the United States Coast Guard.

(b) If the vessel is not repossessed within 20 days after the publication or mailing of the notice, whichever occurs later, the vessel may be disposed of by negotiated sale except that, when two or more prospective purchasers indicate an interest in purchasing the vessel, the vessel will be sold at public auction to the highest bidder in the same manner prescribed under A.S.C.A. 20.0506.

(c) If no prospective purchaser indicates a desire to purchase the vessel, the vessel may be disposed of as junk, donated to a governmental agency, or destroyed.

History: 2013, PL 33-9.

20.0512 Disposition of vessels by persons in vessel repair business.

When a person abandons a vessel on the premises of a vessel repair business, the owner of the business or the business owner's authorized representative may sell or dispose of the vessel under A.S.C.A. 20.0512-20.0516.

History: 2013, PL 33-9.

20.0513 When vessel abandoned.

A vessel is abandoned on the premises of a vessel repair business when all of the following conditions have been satisfied:

(1) the service requested or required by a person whose vessel is towed or brought to a vessel repair business, including but not limited to towing and rendering estimates of the cost of repairs, has been performed;

(2) no authorization is given to perform any further service with respect to the vessel, but the vessel is left on the repair business premises;

(3) the owner of the repair business or the business owner's authorized representative has given notice by registered or certified mail, with a return receipt, to the registered owner of the vessel at the address on record at the vessel repair business and the address on record in a territory, state department, or the United States Coast Guard, and to any person with a recorded interest in the vessel, stating that if the vessel is not repossessed within 30 days after the mailing of the notice it will be sold or disposed of; the notice also must contain a description of the vessel and its location, and it need not be sent to an owner or a person with an unrecorded interest in the vessel whose name or address cannot be determined; and

(4) the vessel is not repossessed within the 30-day period specified in (3) of this section.

History: 2013, PL 33-9.

20.0514 Sale or disposition of vessel.

When a vessel is abandoned, the owner of the vessel repair business, or the business owner's authorized representative, after one public advertisement in a newspaper of general circulation in the state, may negotiate a sale of the vessel or dispose of it. However, the vessel may not be sold or disposed of within less than five days after publication of the advertisement.

History: 2013, PL 33-9.

20.0515 Disposition of proceeds.

The authorized seller of the abandoned vessel is entitled to the proceeds of the sale to the extent that compensation is due to the seller for services rendered with respect to the vessel, including reasonable and customary charges for towing, handling, storage, the cost of notices, environmental clean-up costs, costs associated with decommissioning and disposal if the vessel is unseaworthy and advertising required by A.S.C.A. 20.0514. A

lien holder shall receive priority of payment from the balance of the proceeds to the extent of the lien. Any remaining balance shall be forwarded to the registered owner of the vessel, if the registered owner can be found. If the registered owner cannot be found, the balance shall be deposited with the Treasurer of the American Samoa Government and shall be paid out to the registered owner of the vessel if a proper claim is filed for it within one year from the execution of the sale agreement. If no claim is made within that year, the money shall escheat to the Territory of American Samoa.

History: 2013, PL 33-9.

20.0516 Effect of transfer of title.

The transfer of title and interest by sale under A.S.C.A. 20.0515 is a transfer by operation of law. However, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.

History: 2013, PL 33-9.

20.0517 Regulations.

The department shall adopt regulations under A.S.C.A. 4.1001, et seq. (Administrative Procedure Act) to carry out the provisions of this chapter.

History: 2013, PL 33-9.

Chapters 06—10

(RESERVED)

Chapter 11

HARBOR GENERAL PROVISIONS

Sections:

- 20.1101 Definitions.**
- 20.1102 Observance and promulgation of regulations.**
- 20.1103 Berthing.**
- 20.1104 Permission for harbor movement.**
- 20.1105 Cables to be ready to veer.**
- 20.1106 Duty to aid Port Director.**
- 20.1107 Permission required to cast off.**
- 20.1108 Trying of engines-Permission required-Liability for damage.**
- 20.1109 Anchors to be kept clear and ready.**
- 20.1110 Notification of times for arrival and departure-Harbor speed.**
- 20.1111 Harbor speed.**
- 20.1112 Inability or refusal to comply with regulations.**
- 20.1113 Wharf approach obstruction.**
- 20.1114 Wharf damage.**
- 20.1115 Violation-Penalty.**
- 20.1116 Violation-Emergency.**

- 20.1117 Cleanup fund.**
- 20.1118 Executive Secretary of the Environmental Quality Commission as trustees--
Use of fund.**
- 20.1119 Borrowing authority.**

20.1101 Definitions.

The following definitions shall apply in this title:

- (a) "Berth" means the space occupied by a vessel which is moored or made fast to a wharf, dolphin, or other structure.
- (b) "Container" means a single rigid, inter-modal dry cargo, insulated refrigerated, flat rack, liquid tank, or open door container, demountable, without wheels or chassis attached, furnished or approved by ocean carriers for transportation of commodities aboard its vessels. Modules are generally, referred to or known as 20-footers and 40-footers, even though they may be less than 20 or 40 feet in length. Sea vans (types used for household goods) or other similar shipping containers or cargo boxes are excluded from this definition.
- (c) "Deep draft vessel" is one with a maximum draft over 12 feet when fully loaded.
- (d) "Dockage" means the charge assessed against a vessel when it is:
 - (1) berthed or made fast to a wharf, dolphin, or other structure;
 - (2) lying alongside of or tied to a vessel which is made fast to, or is lying alongside, a wharf, dolphin, or other structure;
 - (3) not tied up to or lying alongside of, but is using, a wharf by means of boats, rafts, lighters, or otherwise.
- (e) "Draft" means the maximum depth of water a vessel draws at the time pilotage is furnished.
- (f) "light draft vessels" are vessels with a maximum draft of 12 feet.
- (g) "Mooring charge" is the charge assessed against light draft vessels for the privilege of tying up to or lying alongside of a wharf or other structure. It is also the charge assessed against such vessels which do not tie up to or lie alongside of a wharf or other structure, but which tie up within the harbor or which use a wharf or other structure by means of a tender or boat which ties up to or lies alongside of same.
- (h) "Pilot" means any person duly licensed by the marine board and appointed as pilot by the port director.
- (i) "Pilotage" is the charge assessed against a vessel for the availability or use of pilot service furnished by the government into and out of the harbor of American Samoa.
- (j) "Port Director" means the head of the Department of Port Administration and his authorized representatives.
- (k) "Service charge" is the charge made against a vessel to cover expenses of administration of the port and maintenance of the harbor.
- (l) "Tons" and "tonnage" in the case of cargo mean a weight of 2,000 pounds, or 40 cubic feet of measurement. In computing the displacement tonnage, the mean draft shall be used in reference to the builder's scale. In the event this scale or other authoritative scale is not available, the displacement shall be computed using Simpson's Rule, as follows:
$$\frac{\text{Length} \times \text{Breadth} \times \text{Draft} \times 0.7}{35}$$
- (m) "Wharf" means and includes any wharf, pier, bulkhead, quay, landing, or other structure owned by the government, to which a vessel may make fast or which may be utilized in the landing of passengers, goods, or merchandise, and includes petroleum storage facilities;
- (n) "Wharfage" means the charge assessed against merchandise:

- (1) for the use of any wharf while awaiting removal therefrom;
- (2) for passing over or through any wharf;
- (3) for passing to or from a vessel while such vessel is:
 - (A) made fast to a wharf,
 - (B) moored in any slip, channel, basin or canal,
 - (C) made fast to another vessel.

History: 1962, PL 7-27; 1972, PL 12-49 § 1; amd 1979, PL 16-44 § 1; amd 1987, PL 40-43 § 1.

Amendments: 1979 Subsection (b): added.

1987 Subsection (b): made “ocean carrier” plural.

Subsection (1): added “of” between “feet” and measurement”.

Subsection (in): added petroleum storage facilities to meaning of “wharf”.

20.1102 Observance and promulgation of regulations.

(a) The regulations contained in this chapter shall be observed by masters, owners, and agents of vessels within harbor limits.

(b) The Port Director shall have the power to promulgate such additional rules and regulations as may be required for the proper administration of the areas and matters under his jurisdiction. Masters of all vessels entering the port of Pago Pago shall abide by these rules and regulations, and any special instruction or order received from the Port Director, the assistant port director, the customs officers, and the pilot.

History: 1962, PL 7-27; 1970, PL 11-89.

20.1103 Berthing.

The berthing of vessels at wharves shall be at the discretion of the Port Director.

History: 1962, PL 7-27.

20.1104 Permission for harbor movement.

Vessels desiring to anchor, moor, shift berth, or move about the harbor will first obtain permission from the Port Director or his authorized representative who shall charge for such a request a fee of \$25.

History: 1993 PL 23-2.

20.1105 Cables to be ready to veer.

Vessels anchored or moored in the harbor shall have their cables ready to veer at all times.

History: 1962, PL 7-27.

20.1106 Duty to aid Port Director.

The master of every vessel and crew thereof, when requested by the Port Director, shall give and afford all possible aid in the performance of his duties in relation to such vessel.

History: 1962, PL 7-27.

20.1107 Permission required to cast off.

No person, without the consent of the port director, may cut or cast off any mooring lines,

rope or tackle made fast or attached to any vessel, wharf, mooring, buoy, or other place when the same- has been fastened or attached by the port director or by his order.

History: 1962, PL 7-27.

20.1108 Trying of engines-Permission required-Liability for damage.

(a) It is unlawful for any vessel to try her engine within the harbor limits without the permission of the Port Director.

(b) Any vessel trying her engines alongside of any wharf will be held responsible for any damage to wharves or vessels as a result of such trying of her engines.

(c) Any vessel, master or agent of vessels who violates section (a) & (b) above is subject to a summary fine of \$500.00, and shall be liable for any damages caused by such violation.

History: 1962, PL 7-27 and 1993, PL 23-2.

20.1109 Anchors to be kept clear and ready.

All vessels entering or leaving port shall keep both anchors clear and in readiness to let go if required.

History: 1962, PL 7-27.

20.1110 Notification of times for arrival and departure.

The master, agents, or owners of a vessel arriving at or departing from the port of Pago Pago shall notify the Port Director as soon as practicable of the times of expected arrival and departure, and in the event of a change in time; the Port Director shall be notified immediately.

History: 1962, PL 7-27.

20.1111 Harbor speed.

Except in cases of actual emergency, all vessels shall proceed at a speed not to exceed 5 knots when entering or leaving Pago Pago Harbor while inside the harbor limits.

History: 1962, PL 7-27.

20.1112 Inability or refusal to comply with regulations.

If by reason of there being no person aboard a vessel with proper authority, or if by reason of an insufficient number of persons being aboard such vessel, noncompliance with this chapter occurs, or if the master or crew of a vessel refuses to aid the Port Director in moving, pumping, mooring or unmooring of such vessel, the Port Director is empowered to pump, moor, unmoor, place or remove such vessel. To this end, the Port Director may, if necessary, hire such assistance, equipment and tackle or purchase and put aboard such quantity of ballast as seems to him requisite, all at the expense of the master, owners, or agents of such vessel. All such costs shall be paid to the government of American Samoa before permission for departure is given. Neither the government nor the Port Director may be held liable for any damage or loss occurring to any vessel in consequence of such proceedings.

History: 1962, PL 7-27.

20.1113 Wharf approach obstruction.

No vessel may anchor in any fairway of any channel, or so as to obstruct the approach to any

wharf.

History: 1962, PL 7-27.

20.1114 Wharf damage.

It shall be the responsibility of the owner, master, or owner's agent to provide any necessary protection to the wharves used, to protect them from all damage in excess of fair wear and tear, whether caused by unusual weather, wind, or operations of the vessel. Any damage caused by any vessel shall be reimbursed to the government prior to the vessel's departure.

A person aggrieved by a fine levied under the provisions of this subsection by the Port Director may appeal the matter to the High Court of American Samoa where the matter will be tried de novo.

History: 1962, PL 7-27; 1968, PL 10-63; 1970, PL 11-125; 1971, PL 12-5; and 1980, PL 16-90 146; and 1986, PL 19-60 § 1.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice. 1986 Amended to upgrade violations to a class D felony.

20.1115 Violation-Penalty.

(a) A person, vessel owner, or master of a vessel who violates 20.1714 is guilty of a class D felony. A person, vessel owner, or master of a vessel who violates any other provisions of this title, or any of the rules promulgated pursuant to this title, is guilty of a class A misdemeanor.

(b) The Port Director may summarily fine a person who, or the master of a vessel who, violates 20.1714 any sum not to exceed \$1,000, or violates any other rule or regulation in, or promulgated pursuant to, this title any sum not to exceed \$1,000 as an alternative to charging a person or persons under subsection (a).

History: 1962, PL 7-27.

20.1116 Violation-Emergency order.

The Port Director may summarily order a person who, or the master of a vessel who, violates 20.1714 to immediately discontinue and to remove or clean up, at the violator's expense, the discharge. A person aggrieved by an order under this section by the Port Director may appeal the matter to the High Court of American Samoa where the matter will be tried de novo.

History: 1986, PL 19-60 § 2.

20.1117 Cleanup Fund.

(a) There is established in the Treasury of American Samoa a Special Cleanup Fund, consisting of such amounts as may be appropriated or transferred to such Fund, as follows:

(1) All moneys identified by the Port Director as having been collected in the form of fines pursuant to section 20.1115(b); and

(2) An initial appropriation, out of any moneys not otherwise appropriated, of \$10,000 for fiscal year 1990.

(b) Nothing, in this chapter shall prevent additional capitalization of the Fund established under subsection (a) above from other sources.

History: 1989, PL 21-27.

20.1118 Executive Secretary of the Environmental Quality Commission as trustee--

Use of fund.

(a) All moneys in the Cleanup Fund established under section 20.1117 shall quarterly be paid over by the Treasurer of American Samoa to the Executive Secretary of the Environmental Quality Commission, who shall serve as Trustee of the Fund.

(b) The Cleanup Fund shall be used for the purpose of cleaning up discharges in the waters of American Samoa that are violations of this chapter, where the violator is unknown. The Executive Secretary of the Environmental Quality Commission as Trustee of the Fund, is empowered to direct the cleanup of sludge, oil refuse, fuel oil, or any product which may cause contamination of the waters of American Samoa.

(c) The Executive Secretary of the Environmental Quality Commission as Trustee of the Cleanup Fund, may also:

- (1) develop plans and programs to prevent future discharges; and
- (2) promulgate those rules and regulations deemed necessary to promote the efficient and proper use of the Fund.

History: 1989, PL 21-27.

20.1119 Borrowing authority.

The Executive Secretary of the Environmental Quality Commission as Trustee of the Cleanup Fund established under section 20.1117, is hereby authorized to borrow, and the Treasurer of American Samoa is authorized to advance, such sums as may be necessary to keep the operating balance of the Fund at least equal to the initial capitalization level of \$10,000. Advances made pursuant to this section shall not exceed \$50,000 per fiscal year and must be repaid to the general fund of the Treasury whenever the Trustee determines that moneys are available for such repayment.

History: 1989, PL 21-27.

Chapter 12

PORTS OF ENTRY

Sections:

20.1201 Designated-Requirements-Vessels in distress.

20.1202 Notice of illegal entry.

20.1201 Designated-Requirements-Vessels in distress.

(a) The port of Pago Pago shall be the only port of entry for American Samoa for surface vessels.

(b) All vessels must enter and clear from such port, and no vessels may call at any other port in American Samoa without first entering and clearing from the port of Pago Pago unless the Governor determines that the public interest or an emergency requires the vessel to enter another port without first entering and clearing from such port, and grants permission to do so.

(c) A vessel in distress may anchor at any port in American Samoa.

History: 1962, PL 7-27.

Research Guide: For designation of additional ports of entry by immigration board, sec 41.0110. For port of entry for aircraft, see 21.0301.

20.1202 Notice of illegal entry.

If any vessel not in distress enters or attempts to enter a port in violation of the provisions of 20.1201, the pulenuu of the village at such port or the representative of the Director of Health shall communicate the fact by the fastest available means to the Director of Port Administration, and shall inform the master of the vessel that such entry is in violation of the law.

History: 1962, PL 7-27.

Chapter 13**PRATIQUE****Sections:**

- 20.1301 Boarding vessel prior to pratique prohibited.**
- 20.1302 Duty to obey Director of Medical Services.**
- 20.1303 Bill of health and list of passengers and crew.**
- 20.1304 Authority to inspect and order precautions.**
- 20.1305 Duty to detain persons on board.**
- 20.1306 Reimbursement of medical expenses.**
- 20.1307 Promulgation of rules and regulations.**
- 20.1308 Violation of quarantine—Penalty.**
- 20.1309 Violation—Penalty.**

20.1301 Boarding vessel prior to pratique prohibited.

(a) The Director of Health or his representative may board each vessel coming from a port other than a port in American Samoa.

(b) No other person except a pilot may board the vessel until pratique has been granted, and there will be no other physical communication with the vessel until pratique has been granted.

History: 1962, PL 7-27; 1972, PL 12-42 § 1.

20.1302 Duty to obey Director of Medical Services.

Ships entering the port of Pago Pago are required to obey any orders of the Director of Health or his representative issued pursuant to this chapter concerning the granting of pratique.

History: 1962, PL 7-27; 1972, PL 12-42 § 2.

20.1303 Bill of health and list of passengers and crew.

The captain or other officer in command of any vessel coming from a foreign port must present to the health officer, upon demand of the Director of Health or his representative, a proper bill of health, together with a full, true, and correct list of all passengers and crew and the list must distinguish residents of American Samoa from nonresident passengers. The passenger list and bill of health must contain such other information and be in such form as is prescribed by the Director of Health or his representative.

History: 1962, PL 7-27; 1972, PL 12-42 § 3.

20.1304 Authority to inspect and order precautions.

The Director of Health or his representative is authorized to inspect any vessel, passengers or

members of the crew when he deems it necessary. He may order such special precautions or restrictions as he deems necessary to prevent the entrance of communicable disease into American Samoa.

History: 1962, PL 7-27; 1972, PL 12-42 § 4.

20.1305 Duty to detain persons on board.

The captain or other officer in command of any vessel shall detain on board any person designated by the Director of Health or his representative, and he shall allow such person to land only when he has received permission therefor from the Director of Health.

History: 1962, PL 7-27.

20.1306 Reimbursement of medical expenses.

Prior to granting clearance to any vessel, there shall be collected from the master or agent thereof the cost of any medical or surgical treatment rendered to the passengers or crew of said vessel including, if applicable, the cost of transportation of such passenger or crew member to the port of his or her embarkation.

History: 1962, PL 7-27.

20.1307 Promulgation of rules and regulations.

The Director of Health or his representative is authorized to promulgate such rules and procedures as necessary and proper for granting pratique to vessels entering American Samoa.

History: 1962, PL 7-27; 1972, PL 12-42 § 1.

20.1308 Violation of quarantine—Penalty.

(a) Any person who departs from the limits of any quarantine area established by the Director of Health or his representative, without permission of the Director or his representative, shall be guilty of a class A misdemeanor and upon conviction, sentenced accordingly.

(b) Any vessel which enters within or departs from the limits of any quarantine area as designated by the Director or his representative, or in disregard of any order or rule promulgated by the director or his representative, shall forfeit to the government not more than \$5,000, the amount to be determined by the High Court of American Samoa, which shall be a lien on such vessel.

History: 1972, PL 12-42 § 5; amd 1980, PL 16-90 § 47.

Amendments: 1980 Amended to conform with penalties provided far in Title 46, Criminal Justice.

20.1309 Violation-Penalty.

Any person who violates any provision of, or rule prescribed under, this chapter shall be guilty of a class A misdemeanor and upon conviction, sentenced accordingly.

History: 1972, PL 12-42 § 5; amd 1980, PL 16-90 § 48.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

Chapter 14

PILOTAGE

Sections:

- 20.1401 Pilot fees compulsory.**
- 20.1402 Requests for pilots.**
- 20.1403 Determination of fees.**
- 20.1404 Exemption.**
- 20.1405 Payment of fees.**
- 20.1406 Damage to piloted vessel.**
- 20.1407 Clearance by customs and port director.**
- 20.1408 Complaints against pilot- procedure.**
- 20.1409 Applicability of international rules.**
- 20.1410 Observance of regulations.**

20.1401 Pilot fees compulsory.

Pilotage is not compulsory, but regular pilot fees shall be charged whether a pilot is employed or not. Pilotage may not be chargeable, however, when the services of a pilot are not available when requested.

History: 1962, PL 7-27.

20.1402 Requests for pilots.

(a) Requests for pilots shall be made to the Port Director.

(b) Inbound Vessel. A pilot cannot always be provided unless the request is made 24 hours before the vessel's arrival. Once the estimated time of arrival at the pilot station is established, 1 hour of leeway is permissible provided the vessel has contacted the pilot boat by radio 30 minutes before its original estimated time of arrival. The pilot boat will listen on 2182 KCs and channel 16 VHF, 1 hour before and 1 hour after the established time of arrival. Vessels not meeting the above requirement to revise their ETA shall be charged a fee of \$75 in addition to the normal pilot fees.

(c) Outbound Vessel. Requests for pilot for outbound vessel should be made 6 hours in advance of sailing. However, the sailing may be delayed without charge for waiting if notice of changed sailing time is made one hour before the original scheduled sailing.

(d) Docking. The port of Pago Pago will normally be open 24 hours per day at the discretion of the Port Director. Whether a vessel shall be allowed to enter and berth during hours of darkness shall be in the discretion of the Port Director.

History: 1962, PL 7-27; 1972, PL 12-49 § 2.

20.1403 Determination of fees.

(a) Pilotage fees shall be based on the draft of a vessel.

(b) Pilotage fees shall be \$85.00 for all vessels, plus an additional fee of \$5.10 per foot of draft or fraction thereof for all vessels over 12 feet. Notwithstanding the above, when the services of a pilot are actually required for a deep draft vessel the minimum charge shall be \$170.00. The base rate for Pilot tows fees shall be \$85.00 for all vessels; and \$5.10 per foot for all vessels over 12 feet.

(c) Other fees shall be:

- (1) moving vessels in harbor: \$170.00 each move;
- (2) anchoring: \$170.00 each anchoring;
- (3) if in the performance of his duties a pilot is detained by any vessel, a charge shall be made for such detention at the rate of \$127.50 per hour or fraction thereof;
- (4) in instances where a pilot is required to accompany a vessel beyond the normal pilot station (one-half mile beyond Whatel Rock Buoy) for any purpose, including interisland pilotage, a charge shall be made at the rate of \$85.00 per hour, and the vessel shall be responsible for the return of the pilot to the port of embarkation;
- (5) the charges provided for waiting shall be applicable only when the services of a pilot have been requested and confirmed, and only when the services of a pilot are actually required;
- (6) a pilotage fee of \$17.00 to or from the harbor shall be assessed against all light draft vessels as defined in these regulations if the services of a pilot are not required;
- (7) Yachts of less than 12-foot draft shall be exempt from pilot fees unless the services are actually performed; said fees are set at \$17.00 per foot for services actually performed. Yachts of over 12-foot draft shall be charged non-pilotage fees set at \$8.50 per foot for yachts that do not require actual services. Yachts over 12-foot that require actual pilotage shall be charged \$17.00 per foot for services actually performed.
- (8) pilotage fees for vessels with tows shall be based on the vessel having the deepest draft, and the charge shall be 50% of that charge for each additional vessel or vessels as long as the vessels remain connected together. If the vessels are separated, pilot fees shall be based on the draft of each unit. The base rate for Pilot tows fees shall be \$85.00 for all vessels; and \$5.10 per foot for all vessels over 12 feet.

History: 1962, PL 7-27; 1972, PL 12-49 § 4; amd 2017, PL 35-6.

20.1404 Exemption.

Any vessel that carries passengers or freight, or both, between the islands of American Samoa and any island in the South Pacific Ocean, owned by any person carrying on business in American Samoa and used in connection with such business, and the master of which is a duly authorized pilot for American Samoa, shall be exempt from pilot fees.

History: 1962, PL 7-27.

20.1405 Payment of fees.

Pilot fees shall be paid by all vessels prior to departure in accordance with the schedule set forth in 20.1403. All fees must be paid to the Treasurer of American Samoa. Pilots are not authorized to receive fees.

History: 1962, PL 7-27; 1972, PL 12-49 §§ 3, 5.

20.1406 Damage to piloted vessel.

Masters of vessels shall be responsible for the safety of their vessels at all times. Neither the government of American Samoa or the pilot are responsible for any loss or damage incurred while a vessel is being piloted.

History: 1962, PL 7-27.

20.1407 Clearance by customs and Port Director.

A pilot may not conduct a vessel to sea unless the vessel has been regularly cleared by Customs and the Port Director's office.

History: 1962, PL 7-27.

20.1408 Complaints against pilot—Procedure.

Any person having a complaint to make against a pilot shall make such complaint in writing to the Port Director, who shall immediately investigate the complaint and report thereon to the Governor.

History: 1962, PL 7-27.

20.1409 Applicability of international rules.

Within the waters of American Samoa, the International Rules for Navigation, modified by local rules and regulations, shall be applicable.

History: 1962, PL 7-27.

20.1410 Observance of regulations.

Pilots will observe all harbor, quarantine and other local regulations.

History: 1962, PL 7-27.

Chapter 15

MOORING AND UNMOORING

Sections:

- 20.1501 Responsibility**
- 20.1502 Mooring lines.**
- 20.1503 Fees-Exemption.**
- 20.1504 Mooring buoys.**

20.1501 Responsibility.

The mooring and unmooring of vessels and the shifting, fastening or releasing of lines of a vessel shall be arranged for by shipping agents. No such service may be provided by the government.

History: 1962, PL 7-27

20.1502 Mooring lines.

No person may make fast any rope or mooring lines to any wharf or part thereof, except to the mooring piles, bitts, or cleats provided for that purpose.

History: 1962, PL 7-27.

20.1503 Fees-Exemption.

(a) All vessels, except pleasure boats and vessels the home waters of which are in American Samoa, shall pay a service charge when entering Pago Pago Harbor. The service charge shall be set by the Port Director.

(b) The Port Director may establish by regulation charges for anchoring and mooring vessels in territorial harbors. Such charges shall be in addition to the charges established in this title.

History: 1962, PL 7-27; 1966, PL 9-31; amd 1970, PL 11-114.

20.1504 Mooring buoys.

No mooring buoys may be installed in the harbor or channel without the authority of the Port Director and the Governor's approval.

History: 1962, PL 7-27.

Chapter 16

DOCKAGE AND WHARFAGE

Sections:

- 20.1601 Beginning and end of dockage.**
- 20.1602 Dockage charges.**
- 20.1603 Charge for half-day dockage.**
- 20.1604 Free dockage.**
- 20.1605 Motor launch and tug fees.**
- 20.1606 Liability for charges.**
- 20.1607 Wharfage charges.**
- 20.1608 Loading and unloading of vessels.**
- 20.1609 Exemption.**

20.1601 Beginning and end of dockage.

- (a) Dockage shall begin against a vessel when:
 - (1) making fast to a wharf, dolphin, or other structure;
 - (2) occupying a berth immediately alongside a wharf;
 - (3) making fast to a vessel alongside a wharf or to another vessel already made fast to a vessel alongside a wharf;
 - (4) the first boat, raft, lighter, etc., reaches a wharf.
- (b) Dockage shall continue upon such vessel until she is completely freed from and vacates her mooring or until the last boat, raft, lighter, etc., leaves a wharf.

History: 1962, PL 7-27.

20.1602 Dockage charges.

- (a) Dockage charges shall apply to all vessels not exempted under 20.1604 as follows:
 - (1) Vessels shall be required to pay dockage charges computed on a gross ton per day basis or per foot of vessel length per day basis, whichever is the greater, and the charge shall be computed as follows:
 - (A) per gross ton per day: \$0.03;
 - (B) per foot of vessel length per day: \$0.17.
 - (2) One-half of the full dockage rate may be assessed against vessels subject to dockage charges if:
 - (A) vessels are lying alongside or tied up to any vessel made fast to a wharf;
 - (B) vessels are lying idle at a wharf;
 - (C) vessels are moored off shore and using a wharf by means of boats or lighters, based on tonnage or length of moored vessels; with a chargeable rate of \$0.02 per ton or \$0.08 per foot,

whichever is greater;

(D) vessels or other floating equipment are lying alongside or tied up to a wharf for purposes of salvaging or rebuilding. Use of the wharf for such purposes will be at the discretion of the Port Director.

(b) No dockage charge may be imposed when a mooring charge is imposed.

History: 1962, PL 7-27; 1972, PL 12-49 §§ 11, 7; amd 2017, PL 35-6.

20.1603 Charge for half-day dockage.

At the discretion of the Port Director, the day may be divided into 2 equal parts for the purpose of determining dockage due, and a vessel may be charged one-half day dockage if it occupies a berth during only one of the equal periods on any day.

History: 1962, PL 7-27.

20.1604 Free dockage.

Free dockage will be accorded as follows:

- (1) at the discretion of the Port Director, provided actual loading and unloading operations are not being performed:
- (2) to government-owned or operated vessels, not engaged commercially:
- (3) to United States Coast Guard or other United States Armed Forces vessels.

History: 1962, PL 7-27; 1972, PL 12-49 § 6.

20.1605 Motor launch and tug fees.

The charge for use of motor launches or tugs for docking or running lines will be established by the Port Director in accordance with the Administrative Procedures Act. 4.1001 et seq.

History: 1962, PL 7-27; 1972, PL 12-49 § 8.

20.1606 Liability for charges.

Wharfage charges shall be paid by the owners of merchandise loaded on or unloaded from any vessel, but the collection of wharfage charges must be guaranteed by the vessel or her owners or agents. Use of a wharf by a vessel, her agents or owners for loading or unloading of freight shall be deemed an acceptance and acknowledgment of the above provision.

History: 1962, PL 7-27.

20.1607 Wharfage charges.

(a) The rates for wharfage shall apply per ton of 2,000 pounds weight or 40 cubic feet of measurement, except copra, for which the ton shall be 2,240 pounds and shall be calculated on the same basis (weight or measurement) as used by the owners of the vessel involved in determining freight charges.

(b) Wharfage charges shall be as follows:

- (1) for each ton or fraction thereof of cargo loaded or unloaded: \$3.40; or for each 40-Cubic Foot or fraction thereof; \$3.40, whichever is greater:
- (2) for shipments under one ton, the wharfage charge in paragraph (1) is prorated with a minimum charge of \$0.85:
- (3) in addition to the above per ton charges, for each gallon of petroleum sold, removed or

drawn out of the government's petroleum storage facilities, \$0.06 per gallon, \$0.02 to be placed in an earmarked revenue fund solely for the preservation, protection and improvement of the petroleum storage facilities and related costs; \$0.02 to be placed in an earmarked revenue fund solely for the purpose of purchasing drugs, medical supplies for patient care, and diagnostic medical equipment for the Lyndon Baines Johnson Tropical Medical Center; and \$0.02 to be placed in an earmarked revenue fund solely for the repayment of the American Samoa Economic Development Authority's Series 2018 bonds, upon full repayment of said bonds, these revenues shall be deposited in the general fund and shall be available for appropriation by the Legislature. The Governor shall administer the collection and disbursements of these funds. This authority shall not be delegated:

(4) vessels unloading or loading into lighters not alongside the wharf will be charged one-half wharfage unless the lighter discharges or loads at a wharf where wharfage rates apply and in such case full wharfage will be charged on the cargo loaded or unloaded from or to the lighter pursuant to paragraph (1).

(c) Prior to the delivery of imported cargo, goods, or merchandise, or prior to their loading for export, the following charges shall be collected from the owner, or from the master, owner or agent of the carrier, in addition to any other charges that may be due:

(1) tonnage dues per shipping ton or fraction thereof of cargo consigned to or shipped from American Samoa, \$1.70; or per 40-cubic feet or fraction thereof, of cargo consigned to or shipped from American Samoa, \$1.70 whichever is greater;

(2) tonnage dues per shipping ton or fraction thereof of cargo arriving in American Samoa for transshipment;

(A) per ton or fraction thereof in, \$1.00;

(B) per ton or fraction thereof out, \$1.00;

(3) provided, however, that tonnage dues on transshipment cargo stored in a government warehouse or other government areas in excess of 72 hours shall be;

(A) per ton or fraction thereof per day or fraction thereof for the first 2 weeks, \$1.00;

(B) per ton or fraction thereof per day or fraction thereof in excess of two weeks, \$2.00;

(4) goods stored in a government warehouse or other areas in excess of 72 hours, per ton or fraction thereof, per day, or fraction thereof, for the first 3 days, \$3.40; after 3 days, the rate shall be \$6.80;

(5) (A) containers stored in the port area or other government areas are subject to charges in addition to tonnage dues and other charges as follows:

(i) inbound containers: 120 hours after arrival, \$0.85 per day; and \$1.70 per day after 30 days.

(ii) outbound containers: immediately upon occupying respective areas, \$0.85 per day and \$1.70 per day after 30 days.

(B) containers stored by or primarily for the use of fish processing facilities are exempt from the charges provided by paragraph (5)(A) if these containers are used within 30 days after arrival or if these containers contain canned fish. After 30 days, a charge of \$0.85 per container for the 31st day shall be applied; and beginning on the 32nd day charges shall increase to \$1.70 per container per day.

(d) Goods arriving in Pago Pago landing marked or specifically identified as for one of the villages in Manu'a shall be exempt from storage charges. The owner or agent for such goods shall arrange for the transshipment to Manu'a on the first available transportation.

(e) In the event the shipping companies resort to containerization of shipments to American Samoa and the space available in all government warehouses is substantially changed as a result of the use of containers, the Port Director is authorized to amend the storage charges contained in

this section so as not to place an unreasonable burden on the government or the shippers until the next meeting of the Legislature.

(f) For the purpose of this section “ton” means 2,000 pounds weight or 40 cubic feet of measurement, except in the case of copra, where a ton means 2,240 pounds.

(g) The charges imposed by this section may be increased, decreased, or supplemented by order of the Governor.

History: 1962, PL 7-27; 1972, PL 12-49 §§ 9, 10; 1972, PL 12-56 § 1; amd 1979, PL 16-44 § 2; amd 1980, PL 16-84 § 1; amd 1987, PL 20-39 § 2; 1987, PL 20-43 § 2; 1989, PL 21-25; amd 1994, PL 23-14; amd 2017, PL 35-6; PL 36-10, amd 2020.

Amendments: 1979 Subsection (c)(5): added.

1980 Added phrase beginning “if these containers.” to subparagraph (c)(5)(B).

1987 PL 20-39: changed fees and added subsection (h): PL 20-43: added subsection (a)(3) and, language to subsection (d): “or specifically identified as after landing marking”.

20.1608 Loading and unloading of vessels.

The master or agent of a vessel shall employ sufficient skilled labor to insure expeditious loading and unloading of the vessel. The number required shall be determined by the Director. The Director is authorized to prescribe realistic time limits within which a vessel shall be loaded or unloaded. If a vessel is not loaded or unloaded within the time limits set by the Director pursuant to this section, he may order the vessel to vacate the dock if the dock is needed for loading or unloading of other vessels.

History: 1972, PL 12-49 § 11.

20.1609 Exemption.

All cargo shipped by or for the Government of American Samoa or the United States Government shall be exempt from all tonnage or wharfage fees imposed by 20.1606 through 20.1608.

History: 1972, PL 12-56 § 2.

Chapter 17

HEALTH AND SAFETY

Sections:

- 20.1701 Liability for property damage.**
- 20.1702 Movement of vessels.**
- 20.1703 Oxygen cylinders.**
- 20.1704 Proper and sufficient gear requirement.**
- 20.1705 Notice of discharge or loading.**
- 20.1706 Vehicle parking on wharf.**
- 20.1707 Vehicles prohibited from wharf-Exception.**
- 20.1708 Decaying matter and dead animals prohibited.**
- 20.1709 Obstructions on wharves.**
- 20.1710 Rubbish prohibited.**
- 20.1711 Repair of vessels on wharves-Permission required.**
- 20.1712 Refilling of gas cylinders on wharves prohibited.**

- 20.1713 Rubbish in harbors and streams forbidden.**
- 20.1714 Discharge of waste products from ships prohibited.**
- 20.1715 Cleanliness of docks alongside vessels.**
- 20.1716 Antirodent measures-Compliance with instructions.**
- 20.1717 Fumigation-Permission required.**
- 20.1718 Use of fire alarm required.**
- 20.1719 Protection of electric cables.**
- 20.1720 Loading and unloading explosives.**
- 20.1721 Explosive and highly inflammable cargo.**
- 20.1722 Heating of combustibles-Permission required.**
- 20.1723 Unloading containers for inflammables.**
- 20.1724 Loading and unloading material with inflammable vapors.**
- 20.1725 Welding and burning-Permits.**
- 20.1726 Welding and burning-Inspection required.**
- 20.1727 Welding and burning-Supervision-Removal of combustibles.**
- 20.1728 Welding and burning-Protective coverings and shields.**
- 20.1729 Welding and burning-Fire mains, hoses, and watchers required.**
- 20.1730 Welding and burning-Use of compressed gas cylinders.**

20.1701 Liability for property damage.

(a) Any vessel, vehicle, merchandise, or person causing damage to any property shall be liable for such damage. The government is not liable for any damage to or loss of merchandise or other property on any wharf.

(b) Agencies loading or unloading at wharves shall indemnify and save harmless the Government of American Samoa, the Government of the United States, and its members and employees from and against all losses, claims, demands or suits for damages, including death and personal injury, and including court costs and attorney's fees, incident to or resulting from their operations on the property of the government and the use of its facilities.

History: 1962, PL 7-27.

20.1702 Movement of vessels.

Vessels may be moved or shifted at any time at the discretion of the Port Director.

History: 1962, PL 7-27.

20.1703 Oxygen cylinders.

(a) Oxygen cylinders shall be kept free from oil and grease at all times.

(b) Oxygen may not be used to blow out oil pipes, for paint spraying, or for pneumatic tools.

History: 1962, PL 7-27.

20.1704 Proper and sufficient gear requirement.

Vessels entering to discharge or load cargo shall provide proper and sufficient gear to load or unload the cargo on or from the wharf.

History: 1962, PL 7-27.

20.1705 Notice of discharge or loading.

Vessels may be discharged or loaded at any time provided 48-hour notice of the intention to discharge or load is given to the Port Director. Vessels making the port of Pago Pago shall notify the Port Director at least 48 hours before entry as to the amount and kind of cargo expected to be discharged.

History: 1962, PL 7-27.

20.1706 Vehicle parking on wharf.

No person may park any vehicle on any wharf, or in the area between the customs warehouse, rear left of the port office, and boat shed, except in a space to be specifically assigned for the purpose by the Port Director, unless such vehicle is in the charge of its duly authorized driver and is then and there in actual service of carrying passengers or freight to or from a pier.

History: 1962, PL 7-27, 1967, PL 10-9.

20.1707 Vehicles prohibited from wharf-Exception.

No vehicle, except emergency vehicles, may be admitted upon any wharf unless the owner or owners thereof have been granted a permit by the Port Director.

History: 1962, PL 7-27.

20.1708 Decaying matter and dead animals prohibited.

No vegetable or animal matter or goods which are in a state of decay or putrefaction may be placed and left upon any wharf, in the waters, or on the shores of the harbor or upon any reef adjacent to the harbor. No dead animal may be moved through the waters of the harbor.

History: 1962, PL 7-27.

20.1709 Obstructions on wharves.

Any person handling goods on a wharf or bringing goods thereon for shipment shall place, store, and stack such goods in such a way as not to be an; impediment to the approaches to the wharf, or an obstacle to the removal of other goods, or cause damage to the wharf. No goods may be so placed as to restrict the use of mooring bitt, cleats or any other device used for mooring purposes. No goods may be so placed as to restrict or prevent the use of track, water connection, fire hydrants, gutters, oil connections or drains.

History: 1962, PL 7-27.

20.1710 Rubbish prohibited.

No person may place and leave any rubbish, ashes or refuse on any wharf without permission of the Port Director.

History: 1962, PL 7-27.

20.1711 Repair of vessels on wharves—Permission required.

No person may make, repair, dress, or scrape a spar or mast or do any kind of work on any wharf in connection with repairing or fitting out any boat or vessel without permission of the Port Director.

History: 1962, PL 7-27.

20.1712 Refilling of gas cylinders on wharves prohibited.

Compressed gas cylinders may not be refilled on any wharf, dock, or pier.

History: 1962, PL 7-27.

20.1713 Rubbish in harbors and streams forbidden.

The placing, discharging, or deposition, by any process or in any manner, of refuse, garbage, hatch and deck rubbish, dirt, ashes, cinders, mud, sand, dredgings, sludge, acid or any other matter of any kind other than that flowing from streets and sewer overflow and passing therefrom in a liquid state into any harbor or any stream flowing into any harbor, is forbidden unless permission is granted in writing by the Port Director.

20.1714 Discharge of waste products from ships prohibited.

The discharge of oil sludge, oil refuse, fuel oil, or any product which may cause contamination of the water of the harbor, either directly or indirectly, or the pumping of bilges into the water of any harbor, is strictly prohibited.

History: 1962, PL 7-27.

20.1715 Cleanliness of docks alongside vessels.

(a) Masters of vessels moored alongside a dock are responsible for the cleanliness and appearance of the dock abreast their vessels.

(b) If any vessel fails or refuses to keep the dock clean, the Port Director may order the dock cleaned and the cost thereof shall be charged to the vessel and paid prior to the vessel's leaving the harbor.

History: 1962, PL 7-27.

20.1716 Antirodent measures-Compliance with instructions.

Any vessel lying alongside any wharf shall at all times comply with instructions of the Director of medical services and of the Port Director relating to the use of rat guards, and other measures required to prevent rodents from leaving the vessel, to the extent that such a regulation applies to the vessel. Failure to comply with such instructions will be considered a violation of this title.

History: 1962, PL 7-27.

20.1717 Fumigation-Permission required.

No vessel may be fumigated or smoked at any wharf without permission in writing from the Governor. If fumigation is to be with cyanogen products or hydrocyanic acid gas in any form, however generated, the applicant or his agent shall be in possession of a permit from the Director of Medical Services and shall have a watchman on duty so long as danger exists, in order that no one, unless properly entitled to do so, be allowed to board such vessel.

History: 1962, PL 7-27; 1970, PL 11-125.

20.1718 Use of fire alarm required.

In the event of fire occurring on board any vessel in port, except vessels under way, such vessel shall sound 5 prolonged blasts of the whistle or siren as an alarm indicating fire on board at the dock to which the vessel is moored. Such signal shall be repeated at intervals to attract attention and is not a substitute for, but may be used in addition to, other means of reporting a fire. "Prolonged blast" means a blast of from 4 to 6 seconds' duration.

History: 1962, PL 7-27.

20.1719 Protection of electric cables.

Where insulated wire cables are in the path of traffic, they shall be protected from breakdown damage by crossovers, and, where they lead onto the ship, they shall be protected from chafing damage by a protective wrapped covering. Where electric cables lead from one ship to another, the same protective measures shall be complied with.

History: 1962, PL 7-27.

20.1720 Loading and unloading explosives.

(a) All handling and loading or unloading of explosives shall be done in a safe and careful manner and shall be in accordance with the federal regulations pertinent thereto in force at the time.

(b) Other cargo may not be removed concurrently with explosive cargo.

(c) All hauling of explosives away from or to a wharf shall be done in a safe and careful manner and shall be in accordance with regulations of the Governor.

History: 1962, PL 7-27.

20.1721 Explosive and highly inflammable cargo.

Vessels carrying explosive or highly inflammable material shall be moored at the discretion of port authorities. On entering the harbor, and while explosive or highly inflammable material is on board, vessels shall in the daytime carry a red flag, international code B, at the foretruck and at night display a red light at the foretruck or at the forward yardarm or above the pilothouse.

History: 1962, PL 7-27.

20.1722 Heating of combustibles- Permission required.

No combustible materials, such as pitch, tar, resin or oil, may be flame heated on board any vessel within the harbor without permission of the Port Director.

History: 1962, PL 7-27.

20.1723 Unloading containers for inflammables.

No empty containers which have been used to hold inflammable liquids may be delivered onto any wharf or structure unless the same are securely closed with metal screw plugs. Such containers shall be delivered onto a wharf or structure only at such times as a carrier is prepared to take immediate delivery.

History: 1962, PL 7-27.

20.1724 Loading and unloading material with inflammable vapors.

Loading or unloading of any liquid which gives off an inflammable vapor (as determined by Tagliabue's Open Cup Tester as used for test of burning oils) at or below a temperature of 80° F. in bulk or in containers is forbidden unless or until the following precautions have been taken:

- (1) a rope fence located at such areas as may be required by the Port Director;
- (2) five signs reading: "DANGER NO SMOKING-NO OPEN FLAMES-NO VISITORS" in 2-inch letters of white on a red background, to be prominently displayed at locations prescribed by the Port Director;
- (3) a fire hose connected to the fire hydrant nearest the gangway, kept run out, equipped with a fog nozzle and the pressure on up to the nozzle;
- (4) all shed doors closed inside the roped-off area adjacent to the vessel: the doors to remain closed while the vessel is in port;
- (5) no mechanical equipment permitted to operate outside the roped-off area and in any adjacent area determined by the Port Director or agent or master of the vessel to be unsafe during adverse wind conditions, when the wind is blowing onto the pier from the vessel, or when there is no wind;
- (6) a trained, capable, experienced and uniformed watchman provided with police authority, as approved by the Attorney General and Port Director, to prevent violations of regulations and to insure safe practice.

History: 1962, PL 7-27.

20.1725 Welding and burning—Permits.

(a) Before any welding or burning operation can be done on a wharf or waterfront facility, or on a vessel moored thereto, the party intending to do such work shall first secure a permit from the Port Director. Applicants for permits to perform such operations shall fill out fully a prescribed form which shall be presented to the Port Director, and, if in his judgment all safety precautions have been provided for, and the welding or burning operations will not involve the possibility of a fire or an explosion, the Port Director may approve the permit to do the work.

(b) In the event that ammunition or other dangerous cargo is in close proximity or on board the ship, the port director and other appropriate officials of the Government of American Samoa shall be notified that an inspection will be conducted, and if in their opinion the welding or burning operations will not involve the possibility of a fire or explosion, permission may be granted to perform the work.

History: 1962, PL 7-27.

20.1726 Welding and burning-Inspection required.

Before any welding, burning, or spark- or flame-producing operations are undertaken aboard any ship, dock, wharf, or waterfront facilities, all spaces subject to the accumulation of dangerous gas or gas-producing materials, in or on which work is to be performed, and such other spaces as may be required by the Port Director, or required under the provisions of the American Bureau of Shipping, National Fire Protection Association Standards, Bureau of Ships Manual, or U.S. Coast Guard regulations, shall be inspected by the Attorney General and Port Director. Such spaces shall include, but shall not be limited to, oil and ballast tanks, cofferdams, voids, boiler machinery spaces, pump rooms, compartments treated with combustible rust preventives, including hollow rudders and skegs, paint lockers and shaft alleys.

History: 1962, PL 7-27.

20.1727 Welding and burning-Supervision- Removal of combustibles.

(a) All welding or burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are fulfilled in their entirety.

(b) All combustible materials are to be removed from the area in which the welding or burning operations are being conducted, or properly protected if removal is not feasible.

History: 1962, PL 7-27.

20.1728 Welding and burning—Protective coverings and shields.

(a) Welding or burning operations shall not be conducted around hatches or companion-ways unless they are sealed with their own cover or door. In the event this is not possible, an asbestos blanket or other flameproof material may be provided in their place. Such substitution shall meet with the approval of the inspecting authority issuing the permit.

(b) When welding or burning is being conducted in locations in which sparks could fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent sparks from igniting the wharf or dock, barges, or oil slicks on the water, or any other combustible materials.

History: 1962, PL 7-27.

20.1729 Welding and burning-Fire mains, hoses, and watchers required.

(a) Water-charged fire mains, with hose and nozzle attached, and the hose of sufficient length so that water can reach the base of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted.

(b) Sufficient trained fire watchers shall be on board and assigned to each group, or individual welder or burner, to watch for and extinguish incipient fire. Each fire watcher shall be provided with an approved fire extinguisher or hose line to control any fire which occurs during the welding or burning operations. All firemen and fire watchers shall be instructed by their foreman or supervisor as to their duties in respect to fire prevention and the manner of contacting the fire department when needed.

History: 1962, PL 7-27.

20.1730 Welding and burning—Use of compressed gas cylinders.

Compressed gas cylinders, when used in welding or burning operations, shall be used in a vertical position only and shall be secured at all times to prevent falling. When cylinders are not in use, valves should be closed and protection caps replaced.

History: 1962, PL 7-27.

Chapter 18

OIL RESPONDER ACT

Sections:

20.1801 Legislative findings.

20.1802 Legislative intent.

- 20.1803 Title.**
20.1804 Definitions.
20.1805 Liability for persons responding to discharges of oil.

20.1801 Legislative findings.

Rapid response and immediate and decisive action are critical to oil spill removal or containment, just as with response to a natural disaster such as fire, cyclone or earthquake. In any of these circumstances responders must take immediate action based on very limited information, attacking the problem quickly if there is to be any realistic chance of mitigating the worst harm. Limited immunity for fire fighters has long been recognized because of these circumstances, and this bill extends similar protection to oil spill responders. Without similar immunity, the enormous financial risks and liability exposures associated with oil spill response will deter those persons who are not responsible for the initial spill, such as cleanup contractors, fishermen and barge owners from prompt aggressive cleanup, or from any response at all. The liability for damages resulting from the oil spill cleanup efforts falls on the party responsible for the discharge, not on the persons trying to help clean up or mitigate the damage.

History: 1993, PL 23-7.

20.1802 Legislative intent.

It is the intention of the Legislature of American Samoa to make American Samoa law consistent with new Federal oil spill legislation that provides limited immunity from liability for removal costs and damages for those persons responding to an oil spill or threat of an oil spill. The immunity applies if those activities are performed in a manner consistent with the Federal National Contingency Plan or at the direction of an on-site coordinator, Federal on-scene coordinator, appropriate Territorial official, or the Coast Guard. Since prompt and incisive action is often critical to the success of an oil spill cleanup or the prevention of an oil spill, actions which are substantially consistent with established plan or on-site or on-scene coordinator direction are deemed to fall within the scope of this act. It is further the intention of the Legislature that victims of oil damage will have a means of compensation. They may recover from the person responsible for the initial discharge or, where the responsible party is unidentified or unable to pay, from the Federal Oil Pollution Fund and any other applicable laws of American Samoa. In addition, immunity for responders is limited. It does not extend to actions for personal injury or wrongful death, or for actions that rise to the level of gross negligence or willful misconduct.

History: 1993, PL 23-7.

20.1803 Title.

This act shall be known as the American Samoa Oil Spill Responder Act.

History: 1993, PL 23-7.

20.1804 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

(1) "Damages" means damages of any kind for which liability may exist under the laws of American Samoa or the common law resulting from, arising out of, or related to the discharge or threatened of oil.

(2) "Discharge" means any emission (other than natural see page), intentional or

unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(3) "Federal on scene coordinator" means the federal official predesignated by the U.S. Environmental Protection Agency or the U.S. Coast Guard to coordinate and direct federal responses under Subpart D, or the official designated by the lead agency to coordinate and direct removal under Subpart E, of the National Contingency Plan.

(4) "National contingency plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (33 U.S.C. 2701), Pub. L. No. 101-380, 104 Stat. 484 (1990).

(5) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(6) "Oil spill response organization" means an organization established for the primary purpose and activity of preventing or rendering care, assistance, equipment or advice in response to a discharge or threatened discharge of oil.

(7) "Person" means an individual, corporation, partnership, association, state, territory, municipality, commission, or political subdivision of a state or territory, or any interstate body.

(8) "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

(9) "Responsible party" means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701 (32), Pub. L. No. 101-380, 104 Stat, 484 (1990).

History: 1993, PL 23-7.

20.1805 Liability for persons responding to discharges of oil.

(a) Notwithstanding any other provision of law, a person (including but not limited to an oil spill response organization) is not liable under the laws of American Samoa or the common law to any person for removal costs, or damages and other claims and expenses which result from actions taken or omitted to be taken in the course of rendering care, assistance or advice consistent with the National Contingency Plan or as otherwise directed by the Federal on-scene coordinator or by the Territorial official with responsibility for oil spill response.

(b) Subsection (a) of 20.1805 does not apply:

(1) to a responsible party;

(2) with respect to personal injury or wrongful death; or

(3) if the person is grossly negligent or engages in willful misconduct in connection with the cleanup of a discharge of oil.

(c) A responsible party is liable for any removal costs and damages that another person (or oil spill response organization) is relieved of under Subsection (a) of Section 20.1805.

(d) Nothing in this section affects the liability of a responsible party for oil spill response under the laws of American Samoa.

History: 1993, PL 23-7.